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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/978,441      | 10/15/2001  | Cole Williams        | 99047A              | 5015             |

7590 12/19/2002

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EXAMINER

AFTERGUT, JEFF H

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1733

2

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PL 2

**Office Action Summary**

Application No.

09/978,441

Applicant(s)

WILLIAMS, COLE

Examiner

Jeff H. Aftergut

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Art Unit: 1733

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of PCT WO 98/19569 or Williams '226 further taken with either one of Town or PCT WO 92/07480 and any one of Harreld et al, Baker et al or Mathis et al.

The references to either one of Williams '226 or PCT '569 taught that it was known at the time the invention was made to form a sock or a glove which was waterproof and breathable in a laminating operation. The glove or sock was formed by initially providing a heat activatable adhesive in a spaced pattern upon a stretchable, waterproof, breathable membrane, see Williams '226 at column 3, lines 36-63 and PCT '569 at page 4, lines 18-page 5, line 4, for example.

Subsequent to the coating of the bladder material, the references taught that one formed the bladder material into a bladder, see column 3, line 64-column 4, line 37 of Williams '226 and page 5, lines 5-31 of PCT '467. The references additionally suggest that the manufacture of the glove or sock included the steps of placing a first fabric member over a mandrel and then applying the adhesive coated bladder over the first fabric member, see column 4, lines 38-64 of Williams '226 and page 5, line 32-page 6, line 16. After the formation of this assembly, the references suggested that an outer fabric layer was disposed over the bladder while the assembly remained upon the mandrel, see column 4, line 64-65 of Williams '226 and page 6, lines 16-17. After the assembly was made, the references suggested that the waterproof breathable glove or

Art Unit: 1733

sock was formed by applying heat and pressure to bond the three layers together with the adhesive which was disposed upon the bladder material, see column 4, line 66-column 5, line 5 of Williams '226 and page 6, lines 18-20 of PCT '569. The references to Williams '226 and PCT '569 taught all of the essential features of the claimed invention however they failed to teach that: (1) the length of the inner sock was less than the length of the bladder which was less in length than the outer sock material, and; (2) the outer sock included an elastic cuff therein.

However, in the art of making a glove, it was commonplace to utilize a plurality of layers in the formation of the same whereby the inner layer was of a size which was less than that of the intermediate layer which was of a size which was less than the exterior layer as evidenced by either one of Town or PCT WO 92/07480. More specifically, the applicant is advised that the use of a small inner layers (the inner glove or sock layer being the smallest followed by the intermediate bladder which was larger than the inner layer but smaller than the exterior covering layer) would have avoided the necessity of cutting the excess material at the end of the sock or glove in manufacture such that the edge of the sock or glove did not expose the inner or intermediate layer. Additionally, the exposure of the inner layer to the environment would have eliminated the waterproofness of the finished product because water would have had easy access to the interior of the sock or glove. The reference to Town suggested that one skilled in the art would have employed a smaller inner liner as opposed to the intermediate layer as opposed to the exterior, see inner liner 13 which is smaller than intermediate liner 12 which was smaller than the exterior liner 11 and the associated description of the same. Note that the intermediate layer 12 is a waterproof membrane having a moisture impervious property. PCT '480 taught a similar structure which included an inner lining which was smaller than an intermediate layer which was

Art Unit: 1733

smaller than an exterior layer. The reference taught that the intermediate layer would have been waterproof. Clearly, one skilled in the art would have readily recognized that the layers would have been provided in the specified sizes in order to ensure that the waterproof lining and interior ply were not exposed to excess water in use. The references failed to teach that when making a waterproof article of clothing that one would have associated elastic with the cuff of the same.

However the references to any one of Harreld et al, Baker et al or Mathis et al suggested that it was known at the time the invention was made to employ a cuff at the end of an article of apparel such as a sock or the cuff of a sleeve and that such would have provided added protection against moisture. More specifically, the applicant is referred to column 4, lines 45-49, column 5, lines 18-25 of Harreld et al who described cuffs 54 as providing a barrier against fluid passage, column 1, lines 5-25 and cuffs 50 and 22 of Baker et al who suggested<sup>11</sup> that such cuffs provided an added barrier to transmission of fluids and column 1, lines 5-32, column Figures 4 and 9 of Mathis et al where the elastic bands were used to prevent fluid migration into the sock or sleeve cuff. Because it would have provided an additional barrier feature to the passage of water into the sock or glove, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the techniques of any one of Harreld et al, Baker et al or Mathis et al to provide an elastic cuff to the sock or glove wherein the same was formed from three layers (an inner layer, an intermediate layer, and an exterior layer) whereby the exterior layer was provided with a larger size than the intermediate layer and the intermediate layer was larger than the inner layer in order to avoid having to cut away excess material after formation as well as ensure a reduction in water exposure to the inner layer as suggested by either one of

Art Unit: 1733

Town or PCT WO 92/07480 when forming a sock or glove according to the techniques of either one of PCT WO 98/19569 or Williams '226.

With regard to the various dependent claims, the applicant is advised that Williams '226 or PCT '569 taught the specified thickness for the bladder material as well as the formation of socks from the process.

### *Specification*

3. The disclosure is objected to because of the following informalities: On pages 2, 9, and 11, applicant makes reference to earlier patent number 4,942,214 (as his own work) and incorporates the document by reference. This appears to be in error, as the above noted document is NOT applicant's work. The applicant is referred to the enclosed copy of US Patent 4,942,214.

Appropriate correction is required.

### *Conclusion*

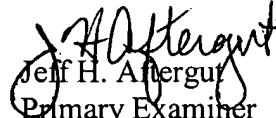
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 703-308-2069. The examiner can normally be reached on Monday-Friday 6:30-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Application/Control Number: 09/978,441  
Art Unit: 1733

Page 6

  
Jeff H. Aftergut  
Primary Examiner  
Art Unit 1733

JHA  
December 17, 2002